

AT AN ADJOURNED MEETING OF THE BOARD OF SUPERVISORS OF THE  
COUNTY OF MONTGOMERY, VIRGINIA HELD ON THE 22<sup>ND</sup> DAY OF JUNE, 2015  
AT 6:00 P.M. IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT  
CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

|          |                     |  |
|----------|---------------------|--|
| PRESENT: | William H. Brown    | -Chair                                 |
|          | Mary W. Biggs       | -Vice Chair (arrived at 6:07 p.m.)     |
|          | Annette S. Perkins  | -Supervisors (arrived at 6:07 p.m.)    |
|          | M. Todd King        |  |
|          | Christopher A. Tuck |  |
|          | Gary D. Creed       |  |
|          | Matthew R. Gabriele |  |
|          | F. Craig Meadows    | -County Administrator                  |
|          | L. Carol Edmonds    | -Deputy County Administrator           |
|          | Emily Gibson        | -Planning Director                     |
|          | Ruth Richey         | -Public Information Officer            |
|          | Judy W. Kiser       | -Assistant to the County Administrator |
| ABSENT:  | Martin M. McMahon   | -County Attorney                       |

### **CALL TO ORDER**

The Chair called the meeting to order.

### **INTO CLOSED MEETING**

On a motion by M. Todd King, seconded by Gary D. Creed and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

- Section 2.2-3711
- (1) Discussion, Consideration or Interviews of Prospective Candidates for Employment, Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining, or Resignation of Specific Officers, Appointees or Employees of Any Public Body
    - 1. Adjustment and Appeals Board
    - 2. Library Board
  - (3) Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of the Disposition of Publicly Held Real Property, Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiating Strategy of the Public Body
    - 1. Future Riner Public Safety Facility
    - 2. Former Blacksburg Middle School Property

The vote on the foregoing motion was as follows:

AYE

M. Todd King  
Gary D. Creed  
Christopher A. Tuck  
Matthew R. Gabriele  
William H. Brown

ABSENT

Mary W. Biggs  
Annette S. Perkins

**Supervisors Mary Biggs and Annette Perkins arrived at the meeting at 6:07 p.m.**

**OUT OF CLOSED MEETING**

On a motion by Mary W. Biggs, seconded by Christopher A. Tuck and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

The vote on the foregoing motion was as follows:

AYE

Mary W. Biggs  
Christopher A. Tuck  
M. Todd King  
Annette S. Perkins  
Matthew R. Gabriele  
Gary D. Creed  
William H. Brown

NAY

None

**CERTIFICATION OF CLOSED MEETING**

On a motion by Mary W. Biggs, seconded by Matthew R. Gabriele and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

VOTE

## AYES

Mary W. Biggs  
Matthew R. Gabriele  
Christopher A. Tuck  
M. Todd King  
Gary D. Creed  
Annette S. Perkins (for time present)  
William H. Brown

## NAY

None

## ABSENT DURING VOTE

None

## ABSENT DURING MEETING

None

## **Request to remove Resolution from Agenda**

Supervisor Todd King asked that Item A under New Business “A Resolution Supporting the Display of the National Motto ‘In God We Trust’ in the Board Chambers” be removed from the agenda and listed on the Board’s July 13<sup>th</sup> agenda for discussion under work session.

## **INVOCATION**

A moment of silence was led by the Chair.

## **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

## **PUBLIC HEARINGS**

### Rezoning Request-Gary Creed

**Request by Gary Creed (Agent: Balzer & Associates, Inc.) to rezone approximately 2.42 acres from Agricultural (A-1) to Residential (R-3), with possible proffered conditions, to allow the creation of seven (7) parcels.** The property is located on the northeast corner of the Roanoke Road (US 11/460) and Crozier Road (SR 833) intersection, identified as Tax Parcel Nos. 059-2-1C, 1D (Parcel Nos. 035191 and 200068) in the Shawsville Magisterial District (District C). The property currently lies in an area designated as Village Expansion in the 2025 Comprehensive Plan and further described as Medium Density Residential within the Elliston/Lafayette Village Plan with a proposed gross density of four (4) dwelling units per acre.

Supervisor Gary Creed recused himself from participating in the public hearing and took a seat in the audience.

Planning Director Emily Gibson reported that the Planning Commission held a public hearing on the request and felt the proposed use was consistent with Montgomery County's 2025 Comprehensive Plan, as well as the Elliston/Lafayette Village Plan, and that the proposed rezoning meets the goals and objectives of the future land use for the area. Ten citizens spoke in opposition to the request with concerns regarding the proposed density and compatibility of the proposed rezoning with the area. Other concerns were diminished views, property values, and potential storm water issues. The Planning Commission recommended approval of the request with the following proffered conditions:

1. The site shall be served by Montgomery County PSA sanitary sewer and water. The rezoning of the property does not allocate or reserve water and sewer capacity for the proposed development. Site plan approval for the development shall be conditioned upon adequate water and sewer capacity being available.
2. If the property is developed such that onsite stormwater management or common open space is provided to benefit the project, a homeowners association will be established to permanently maintain these common elements. Documentation establishing the homeowners association and any associated bylaws and covenants and restrictions shall be reviewed and approved by the County Attorney.
3. Any subdivided lots must front on a newly created, publicly maintained road with a single entrance on State Route 833, Crozier Road. Any new subdivision roads and/or entrances must be approved by the Virginia Department of Transportation prior to any site plan approval or subdivision plat approval.
4. There shall be no more than seven (7) single family residential lots developed on the subject parcels.

Steve Semones, Balzer & Associates, agent for the applicant - Mr. Semones pointed out that the applicant did not want to go to a multi-family, townhouse, or duplex type of project, but a single family residential project which was more in line with what is already on Crozier Road. Although the lots are smaller than some of the lots there now, public water and sewer is available and there would be a main extension of the sewer line that would likely come down the new public road, or along the back of the lots that back up to 460, which would be the responsibility of the applicant. Also, VDOT requires that a limited traffic study be done at the intersection. Because the traffic study has to be conducted when school is in session in order for it to be accurate it cannot be done until late in August.

Steve Carter – 1320 Bronco Lane, Elliston Mr. Carter spoke in opposition to the proposed rezoning, pointing out that the first paragraph of the Elliston/Lafayette Village Plan states “Montgomery County is encouraging appropriate development of the village to maintain the existing character and historical value”, and lot sizes being proposed will not be in the character of the neighborhood. Nor do any of the homes in the neighborhood have a back door that goes up to the front porch of the other neighbors. Mr. Carter pointed out that there are currently 38 houses listed for sale by realtors in Montgomery County, and over 50% of those have been for sale for over two years. This proposed development is not in the best interest of the citizens of their community. Mr. Carter thanked the Board for the opportunity to speak.

David Chacon 4576 Crozier Road, Elliston Mr. Chacon informed the Board that he and his wife own the property at 4576 Crozier Road, and proceeded to share a bit of history about the property. The property was originally owned by his father-in-law Jack Crozier. As Mr. Crozier

was getting aged he was approached by someone he believed to be from the county, to sell that property for the purpose of building a library. According to Mr. Chacon, Mr. Crozier told his daughter that the people from the county said they were going to put a library right there and for him to sell them the property. In addition to selling them the property, he gave them \$10,000 to help build that library. To this date that property was never used for a library and Mr. Chacon assumes the funds were for some other reason and not used. Eventually that property was sold to someone in the neighborhood, and then resold to Mr. Creed. Mr. Chacon said that with the property being sold, they (Chacons) had an easement right along 460 going to Crozier Road. He had copies of the deed showing his right-of-way of easement on the property and he wanted the Board to be aware of it when they made their decision. Mr. Chacon suggested that Mr. Crozier may have been taken advantage of by people that coerced him in some way to sell this property and give money away. Mr. Chacon still does not know what happened to the \$10,000 that was supposed to go to Mr. Crozier's daughter. He told his daughter it was an investment for her in the county.

Larry Nowlin 8865 Roanoke Road Mr. Nowlin and his family moved here 8 years ago for the beautiful views, and they would hate to lose all that. He asked that the Board look at Mr. Chacon's deed and right-of-way; and the applicant wants to go through 3 lots that will take up his right-of-way. He asked that the Board vote no on the rezoning request.

Mike Scanborn 1330 Crozier Road, Elliston Mr. Scanborn's issue was about access to Crozier Road. When school is in session there is a great deal of traffic right where the road is supposed to enter onto Crozier Road. He cannot imagine how this could be reconfigured to allow for folks going and coming from work from seven homes there. When there is a sporting event at the school, the road gets quite busy and people will park along the road. His other concern is the size of the homes. Although he doesn't know what the square footage of the homes will be, he can't imagine anything larger than a starter home being on such a small lot. He repeated that his concern is access to Crozier Road, and people turning left onto Crozier Road from 460, then turning left to go onto this proposed road would be a challenge, and he is opposed to the proposed rezoning.

Vickie Sanders 4600 Crozier Road Mr. and Ms. Sanders' property is adjacent to the subject property. They chose to move to their home for several reasons, including gorgeous views and wonderful neighbors. They feel honored to live in a home that was part of the original Crozier estate. Her house was physically moved across the street to make way for the new school. She thinks the proposed division of the property is ridiculous and totally out of place in their neighborhood. To make this small tract so densely populated would hurt their home values drastically. She suggested that Montgomery County needs to pay less attention to an increased tax base and more attention to intelligent development.

Supervisor Chris Tuck asked the applicant's agent about the 40' right-of-way that Mr. Chacon had described. Mr. Semones said they did a limited amount of research, but they went back and found that Mr. Crozier did transfer that property to them, probably for the benefit of a future library. In 2004 Mr. Crozier again subdivided the property, so you've got Mr. Chacon's parcel and Mr. Nowlin's parcel, that was at the time that we subdivided this off for the school, there was one remaining parcel. In 2004 that was subdivided again and this made the 2 parcels Mr. Chacon and Mr. Nowlin have. At that time, there was a right-of-way that was deeded from 460 through which was then Crozier, now Chacon property, to access Mr. Nowlin's property.

When Mr. Semones looked at the initial deed from 1999 he found that it does have the language that Mr. Chacon brought up and it is very clear as to how that easement is to be used, but there

was no reference to it in the Nowlin deed. There was further subdivision done when Mr. Creed separated them into two lots, it did mention that easement but it said the status was unknown. After further research, Mr. Semones found a quick claim deed from a Rena Chacon to a David Chacon, releasing her interest in the property in 2009, so the understanding from what was read, the easement language at first said for the benefit of the spouse of Mr. Crozier or a child, which would have been his daughter. In 2009, the quick claim deed gave that property and her interest to David. At that point, that easement would have basically gone away because there was no longer a spouse or a child of Mr. Crozier that owned that property as stated in the original 1999 deed.

Chair Brown asked if anyone had information related to the property being sold so a library could be built on the site. Supervisor Biggs explained that it would have been the Library Foundation which raises funds for the library. The Deputy County Administrator stated that she remembered the Foundation coming to the Board of Supervisors at some point in time and indicated they had property for a library and were requesting capital. Staff will research the subject and report back to the Board.

The Chair announced that it would be two weeks before the Board of Supervisors takes any action as a result of the public hearing.

There being no further speakers, the public hearing was closed.

### **PUBLIC ADDRESS**

Javad Torabinejad spoke in support of the ordinance making it unlawful to discharge pollutants into the MS4 Regulated Stormwater Collection System. He thanked Doug Burton, Director of Engineering & Regulatory Compliance, for his efforts to help solve our county's environmental problems.

There being no further speakers, the public address session was closed.

### **CONSENT AGENDA**

On a motion by Matthew R. Gabriele, seconded by Mary W. Biggs and carried unanimously, the Consent Agenda dated June 22, 2015 was approved. The vote was as follows:

|                     |            |
|---------------------|------------|
| <u>AYE</u>          | <u>NAY</u> |
| Matthew R. Gabriele | None       |
| Mary W. Biggs       |            |
| Gary D. Creed       |            |
| M. Todd King        |            |
| Christopher A. Tuck |            |
| Annette S. Perkins  |            |
| William H. Brown    |            |

### **Approval of Minutes**

On a motion by Matthew R. Gabriele, seconded by Mary W. Biggs and carried unanimously, the Minutes dated March 23, 2015 were approved.

Appropriations

**A-FY-15-95  
CLERK OF CIRCUIT COURT  
RECOVERED COSTS – COPIER SERVICES**

On a motion by Matthew R. Gabriele, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2015 for the function and in the amount as follows:

|     |                        |          |
|-----|------------------------|----------|
| 250 | Clerk of Circuit Court | \$11,000 |
|-----|------------------------|----------|

The source of funds for the foregoing appropriation is as follows:

Revenue Account

|        |                          |          |
|--------|--------------------------|----------|
| 419108 | Recovered Costs – Copier | \$11,000 |
|--------|--------------------------|----------|

Said resolution appropriates recovered cost revenue to cover copier charges.

**A-FY-15-96  
MONTGOMERY-FLOYD REGIONAL LIBRARY  
RECOVERED COSTS AND CONTRIBUTIONS**

On a motion by Matthew R. Gabriele, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2015 for the function and in the amount as follows:

|     |                    |         |
|-----|--------------------|---------|
| 710 | Montgomery Library | \$8,944 |
|-----|--------------------|---------|

The sources of funds for the foregoing appropriation are as follows:

Revenue Account

|               |        |                                     |                |     |
|---------------|--------|-------------------------------------|----------------|-----|
| 02            | 415207 | Sale of Surplus                     | \$             | 544 |
| 027101-415211 |        | Sale of Photocopies                 | \$             | 400 |
| 027101-416159 |        | Town of Blacksburg Contribution     | \$3,000        |     |
| 027101-416160 |        | Town of Christiansburg Contribution | <u>\$5,000</u> |     |
|               |        | Total                               | \$8,944        |     |

Said resolution appropriates additional revenue that was collected by the Library in FY 2015.

**A-FY-15-97  
TREASURER  
DMV STOP FEES**

On a motion by Matthew R. Gabriele, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2015 for the function and in the amount as follows:

|                             |         |
|-----------------------------|---------|
| 162 Treasurer's Collections | \$4,133 |
|-----------------------------|---------|

The source of funds for the foregoing appropriation is as follows:

Revenue Account

|                     |         |
|---------------------|---------|
| 411605 DMV Stop Fee | \$4,133 |
|---------------------|---------|

Said resolution appropriates DMV Stop Fees collected to pay the associated fee to the DMV and Commonwealth of Virginia.

**A-FY-15-98  
SCHOOL OPERATING FUND  
FY15 BUDGET ADJUSTMENT**

On a motion by Matthew R. Gabriele, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer between categories for the School Operating Fund was granted for the fiscal year ending June 30, 2015, for the function and in the amount as follows:

FROM

|                                   |             |
|-----------------------------------|-------------|
| 640000 Operations and Maintenance | (\$347,700) |
|-----------------------------------|-------------|

TO

|                     |           |
|---------------------|-----------|
| 670000 Debt Service | \$347,700 |
|---------------------|-----------|

Said resolution transfers funds between School Operating Fund to cover the debt service payment for the PEPCO energy project.

Appointments

**R-FY-15-138  
ADJUSTMENT AND APPEALS BOARD  
REAPPOINT CHRISTOPHER C. SARVER**

On a motion by Matthew R. Gabriele, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby reappoints **Christopher C. Sarver** to the **Adjustment and Appeals Board** effective June 26, 2015 and expiring June 25, 2019.



**R-FY-15-139**  
**NEW RIVER/MOUNT ROGERS**  
**LOCAL WORKFORCE INVESTMENT BOARD**  
**RECOMMEND APPOINTMENT OF SHAUN RAI**

On a motion by Matthew R. Gabriele, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby recommends that **Shaun Rai** be appointed to the **New River/Mount Rogers Workforce Investment Board** as a business (private sector) representative for Montgomery County effective July 1, 2015 and expiring June 30, 2018.

**INTO WORK SESSION**

On a motion by Annette S. Perkins, seconded by M. Todd King and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Work Session for the purpose of discussing the following:

1. Review of One-Time Monies
2. Supplemental Appropriation-Schools
3. Inmate Labor Crew
4. Parental Leave

The vote on the foregoing motion was as follows:

AYE

Annette S. Perkins  
M. Todd King  
Christopher A. Tuck  
Matthew R. Gabriele  
Gary D. Creed  
Mary W. Biggs  
William H. Brown

NAY

None

Review of One-Time Monies

Deputy County Administrator Carol Edmonds reviewed the one-time monies with the Board, and a list of possible uses as follows:

|                           |  |
|---------------------------|--|
| REVIEW OF ONE-TIME MONIES |  |
| June 22, 2015             |  |

|  |        |
|--|--------|
| Special Contingencies:<br>On-going money in the Operating Budget |        |
| FY 16 Approved Budget  |        |
| Special Contingencies  | 59,500 |
| Inmate Labor Crew  | 50,000 |
| Wage Adjustment Poverty Level                                    | 9,500  |
| Total  | 59,500 |

|  |           |
|--|-----------|
| Undesignated Dollars-One-Time Funds: \$'s remaining from June 30, 2014 |           |
| Dollars  | 404,360   |
| Possible Uses  |           |
| Transfer to School Capital for SES ✓                                   | (74,700)  |
| Burn Building Water Line ✓   | (13,000)  |
| Restore Capital Reserve for FY 16                                      | (29,327)  |
| Reserve for Animal Shelter ✓   | (287,333) |
| Total expense  | (404,360) |
| DOLLARS AVAILABLE  | 29,232    |

|                                  |           |
|----------------------------------|-----------|
| Windfall Dollars-One-Time Funds  |           |
| WINDFALL DOLLARS -ONE TIME FUNDS |           |
| Available Dollars                | 678,707   |
| Possible Uses                    |           |
| Library Master Plan              | (35,000)  |
| Library Drainage Repair          | (15,000)  |
| Parental Leave Reserve           | (75,000)  |
| Frog Pond Refurbishment          | (250,000) |
| School Bus Replacements (2)      | (153,707) |
| Technology-Schools               | (150,000) |
| Total possible expense           | (678,707) |
| Other items discussed            |           |
| Inmate work crew equipment       | 41,500    |

The work session also included discussion of a request from the MCPS Superintendent for \$775,000 from the County to be used for capital improvements for Montgomery County Schools, as follows:

- \$275,000 represents \$25,000 for a state grant to match to address safety enhancements and \$250,000 for building repair and the roof maintenance plan
- \$150,000 for Technology Improvement Plan Budget line to support continued improvements in hardware
- \$350,000 Four (4) replacement school buses
- \$775,000 Total

Following discussion on the items listed above:

It was the consensus of the Board to put \$35,000 in reserve for the Library Master Plan. Supervisor Tuck indicated that he would not support a resolution because he believes a master plan would be outdated by the time the Board is able to borrow more money.

It was the consensus of the Board to appropriate \$153,707 for two (2) school buses using one-time funds.

It was the consensus of the Board to appropriate \$150,000 of one-time funds to schools for technology.

Supervisor Chris Tuck said he wanted to vote on each of the above items individually when the appropriations come before the Board for approval. He also asked where the money was coming

from for the Inmate Labor Crew (\$50,000) and the Wage Adjustment Poverty Level (\$9,500) listed under Special Contingencies.

There was no consensus on the Schools' request for \$775,000 to be used for capital improvements for Montgomery County Schools.

Parental Leave – there was discussion about the survey of county employees on whether they wanted parental leave, with the vast majority responding that they did not want it.

The Board took a 5-minute break at 8:53 p.m. and reconvened at 8:58 p.m.

### **OUT OF WORK SESSION**

On a motion by Matthew R. Gabriele, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Work Session to return to Regular Session. The vote was as follows:

|                     |            |
|---------------------|------------|
| <u>AYE</u>          | <u>NAY</u> |
| Matthew R. Gabriele | None       |
| Mary W. Biggs       |            |
| Gary D. Creed       |            |
| Annette S. Perkins  |            |
| M. Todd King        |            |
| Christopher A. Tuck |            |
| William H. Brown    |            |

### **ADD TO AGENDA UNDER NEW BUSINESS-PARENTAL LEAVE**

On a motion by Matthew R. Gabriele, seconded by Mary W. Biggs and carried, Parental Leave was added to the Agenda under New Business. The vote was as follows:

|                     |                     |
|---------------------|---------------------|
| <u>AYE</u>          | <u>NAY</u>          |
| Matthew R. Gabriele | Gary D. Creed       |
| Mary W. Biggs       | M. Todd King        |
| Annette S. Perkins  | Christopher A. Tuck |
| William H. Brown    |                     |

### **OLD BUSINESS**

#### **ORD-FY-15-10**

**AN ORDINANCE AMENDING CHAPTER 8 ENTITLED  
PLANNING AND DEVELOPMENT OF THE CODE OF THE COUNTY  
OF MONTGOMERY, VIRGINIA ARTICLE III, BY ESTABLISHING  
DIVISION 3 ENTITLED DISCHARGE BE ADDING SECTIONS 8-90  
THROUGH 8-94 MAKING IT UNLAWFUL TO DISCHARGE  
POLLUTANTS INTO THE COUNTY'S MS4 REGULATED  
STORMWATER COLLECTION SYSTEM**

On a motion by Mary W. Biggs, seconded by Christopher A. Tuck and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County finds that the uncontrolled discharge of pollutants to its Municipal Separate Storm Sewer System (MS4) has an adverse impact on the water quality of receiving waters; and

WHEREAS, Amendments to the Federal Water Pollution Control Act, commonly known as the Clean Water Act, established the National Pollutant Discharge Elimination System (NPDES) Program, which requires permits for discharges from regulated municipal separate storm sewer systems into the waters of the United States; and

WHEREAS, The United States Environmental Protection Agency (EPA) has promulgated regulations implementing the NPDES program, and the EPA has authorized the Commonwealth of Virginia to issue NPDES permits under the Virginia Pollutant Discharge and Elimination System (VPDES) permit system; and

WHEREAS, The VPDES regulations for stormwater discharges require Montgomery County to control the contribution of pollutants to its regulated MS4 by prohibiting illicit discharges, and to inspect, monitor, and enforce the prohibitions of illicit discharges to its regulated MS4; and

WHEREAS, The Board of Supervisors hereby finds that this ordinance satisfies these regulatory requirements.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia, that Chapter 8, entitled Planning and Development, Article III, Division 3, entitled Illicit Discharge, Sections 8-90 through 8-94 respectively of the Code of the County of Montgomery, Virginia shall be amended and reordained as follows:

### **DIVISION 3 – ILLICIT DISCHARGE**

#### **Section 8-90. – Purpose and Authority**

- (a) Pollutants discharged from the County's municipal separate storm sewer system (MS4) have an adverse impact upon the quality of receiving waters. Stormwater, and any other materials which enter the County's MS4, travel through the system and are discharged into receiving waters with minimal or no treatment. Since pollutants entering this system come from many sources and are to date largely uncontrolled, reduction of pollutant discharges can only be achieved by a broad restriction on a variety of activities occurring throughout the County. The purpose of this division is to prevent pollutants from being discharged by the County's stormwater collection system by requiring all citizens to prevent such pollutants from initially entering the system.
- (b) This division is adopted to comply with the requirements of the Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems issued by the Commonwealth of Virginia and as an integral part of the County's stormwater management program.

#### **Section 8-91. - Definitions**

The following words and terms as used in this division shall have the following meanings, unless the context clearly indicates otherwise:

“Administrator” means as that term is defined under Section 8-71 of the Code of the County of Montgomery, Virginia.

“Discharge” means to dispose, deposit, spill, pour, inject, dump, pump, leak, or place by any means, or that which is disposed, deposited, spilled, poured, injected, dumped, pumped, leaked, or placed by any means.

“Illicit connection” means any connection, in any manner whatsoever, to the County’s MS4 which is not authorized by applicable state law or County ordinance, and has not been approved by the County in accordance with applicable County ordinances.

“Illicit discharge” means any discharge to the County’s MS4 that is not composed entirely of stormwater, except discharges pursuant to a VPDES or VSMP permit (other than the VSMP permit for discharges from the MS4), discharges resulting from firefighting activities, and discharges identified by and in compliance with 9VAC25-870-400 D 2 c (3).

"Municipal separate storm sewer" means a conveyance or system of conveyances otherwise known as a municipal separate storm sewer system or "MS4," including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains:

1. Owned or operated by a federal, state, city, town, County, district, association, or other public body, created by or pursuant to state law, having jurisdiction or delegated authority for erosion and sediment control and stormwater management, or a designated and approved management agency under § 208 of the CWA that discharges to surface waters;
2. Designed or used for collecting or conveying stormwater;
3. That is not a combined sewer; and
4. That is not part of a publicly owned treatment works.

“National Pollutant Discharge Elimination System” (NPDES) means the federal program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pre-treatment requirements under the Clean Water Act (CWA).

“Virginia Pollutant Discharge Elimination System” (VPDES) means the program issued by the Commonwealth of Virginia for imposing and enforcing pre-treatment requirements pursuant to the Clean Water Act (CWA).

#### **Section 8-92. – Discharges to the Storm Sewer System**

- (a) It shall be unlawful and a violation of this division to allow any discharge that is not composed entirely of stormwater, except as described in subsection (d) below, that enters, or has the potential of entering, the MS4.
- (b) It shall be unlawful and a violation of this division to cause or allow any illicit connection to the MS4.
- (c) Illicit discharges in any amount to the County’s storm sewer system, to any private stormwater conveyance system, or to any stormwater management system whether intended for water quality or water quantity control, unless the system conveys the fluids to an

appropriate water treatment facility or the discharge is permitted by a VPDES permit or by a NPDES permit include, but are not limited to:

- (1) Sewage;
- (2) Automotive, motor or equipment fluids;
- (3) Paints and/or organic solvents;
- (4) PCBs;
- (5) Toxic materials;
- (6) Waste disposal site leachate;
- (7) Radioactive materials;
- (8) Any fluid at a temperature greater than 65° celsius;
- (9) Any fluid having a pH less than 5.0 or greater than 9.0;
- (10) Any fluid containing more than thirty (30) milligrams per liter of total suspended solids;
- (11) Any fluid containing dyes or coloring material which discolor the water more than fifty (50) American dye manufacturers institute [ADMI] units;
- (12) Any fluid containing material which causes a visible film, sheen or discoloration on the water surface;
- (13) Any substance which may cause or do any injury to, interfere with the proper operation of, obstruct the flow into or through, or pollute a stormwater management facility;
- (14) Any commercial, industrial, or manufacturing process water, wash water, or unpermitted discharge;
- (15) Any substance of non-stormwater origin unless specifically exempted from this division;
- (16) Matter of any type which may:
  - (i) Result in a hazard to any person, animal, property, or vegetation; or,
  - (ii) Impair the quality of the water in any well, lake, river, pond, spring, stream, reservoir or other water or watercourse.

(d) The following non-stormwater discharges are allowable under this division:

- (1) Discharges or flows covered by a separate individual or general VPDES or VSMP permit for non-stormwater discharges;
- (2) Individual non-stormwater discharges or flows that have been identified in writing by the Virginia Department of Environmental Quality as de minimis discharges that are not significant sources of pollutants to state waters and do not require a VPDES permit;
- (3) Non-stormwater discharges or flows as listed in the following categories, unless they are identified by the Administrator or Virginia Water Control Board, as significant contributors of pollutants.
  - (i) Water line flushing.
  - (ii) Landscape irrigation and/or lawn watering.
  - (iii) Diverted stream flows or uncontaminated ground water flows.
  - (iv) Water from public safety activities, including, but not limited to, law enforcement and fire suppression.
  - (v) Pumping or drainage of uncontaminated groundwater from potable water sources, foundation drains, basements, springs, or water from crawl spaces, or footing drains.
  - (vi) Non-commercial car washing.
  - (vii) Residential yard maintenance, including seasonal leaf pick-up and brush removal.
  - (viii) Street washing.

- (ix) Swimming pool discharges with less than one (1) parts per million [PPM] chlorine.
- (x) Any activity by a governmental entity or its employees and agents in accordance with federal, state, and local regulations and standards for the maintenance or repair of drinking water reservoirs or water treatment or distribution systems.
- (xi) Any activity by a governmental entity or its employees and agents in accordance with federal, state, and local regulations and standards, for the maintenance of any component of its stormwater management system.
- (xii) Discharges specified in writing by the program administrator and/or his or her designee as being necessary to protect public health and safety.
- (xiii) Dye testing, following notification to the program administrator.
- (4) If any of the activities listed in subsection (3), above, of this section are found to be sources of pollutants to public waters, the administrator shall so notify the person performing such activities and shall order that such activities be stopped or performed in such a manner as to avoid discharge of pollutants into such waters. The failure to comply with any such order shall be unlawful and a violation of this division.

### **Section 8-93. – Inspections and Monitoring**

- (a) The Administrator shall have the authority to carry out all inspections and monitoring procedures necessary to determine compliance and/or noncompliance with this division, and to enforce the requirements of the provisions of this division, including the prohibition of illicit discharges to the storm sewer system. The administrator and/or his or her designee(s) may monitor stormwater outfalls or other components of the municipal storm sewer system as may be appropriate in the administration and enforcement of this division.
- (b) The Administrator shall have the authority, at his sole discretion, to require pollution prevention plans from any person whose property discharges, or has the potential to discharge, to the MS4.
- (c) The Administrator and/or his designee(s) shall have the authority to, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this division. This authority shall apply only to those properties from which a discharge enters the County's municipal separate storm sewer systems.
- (d) The Administrator shall have the authority to require any person responsible for a discharge to the MS4 to document that such discharge meets and is in compliance with the requirements of this division. This includes, but is not limited to, the ability of the Administrator to require such person to provide monitoring reports, test results, and such other matters as may be deemed necessary to show that such discharge is in compliance with the requirements of this division. The cost of any required documentation shall be the responsibility of the person responsible for the discharge.
- (e) The failure of any person to comply with any of the requirements of this section shall constitute a violation of this division.

### **Section 8-94. – Enforcement and Penalties**

- (a) Any person who violates any of the provisions of this division shall be guilty of a Class I misdemeanor and, upon conviction, is subject to punishment by a fine of not more than two thousand five hundred dollars (\$2,500.00) per violation per day and confinement in jail for not more than twelve (12) months, either or both.
- (b) Each day during which a violation of this division occurs or continues shall be deemed a

separate and distinct violation of this chapter.

- (c) Any person who commits any of the acts prohibited by this chapter or violates any of the provisions of this division shall be liable to the County for all costs of testing, containment, cleanup, abatement, removal, disposal, and any other related costs or expenses that the County may incur in connection with the enforcement of this division and/or the prohibition and/or correction of a violation of this division.
- (d) The Administrator may bring legal action to enjoin a violation of this division and the existence of any other remedy shall be no defense to any such action.
- (e) In addition to any of the remedies set forth above, the Administrator may seek to impose, or have imposed by the appropriate authority, any of the remedies provided for by §62.1-44.15:48, Code of Virginia (1950), as amended, which are incorporated herein by reference.
- (f) In any court action that may result from enforcement of this division, a judge hearing the case may direct the person responsible for the violation or the property owner to correct the violation and each day that the violation continues shall constitute a separate violation of this chapter.
- (g) Any person who knowingly makes any false statements, representations, or certifications in any record, report, or other document, either filed or requested pursuant to this chapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required or used by the director under this chapter in monitoring discharges, shall be guilty of a violation of this division.
- (h) The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one or more of the remedies set forth herein has been sought or granted.

**THIS ORDINANCE SHALL BE DEEMED EFFECTIVE AS OF JULY 1, 2015.**

The vote on the foregoing ordinance was as follows:

AYE

Mary W. Bibbs  
Christopher A. Tuck  
M. Todd King  
Annette S. Perkins  
Gary D. Creed  
Matthew R. Gabriele  
William H. Brown

NAY

None

**R-FY-15-140**

**RESOLUTION AUTHORIZING THE CONVEYANCE OF THE  
FORMER MONTGOMERY COUNTY SCHOOL ADMINISTRATION PROPERTY  
LOCATED AT 200 JUNKIN STREET, CHRISTIANSBURG, VIRGINIA  
TO TAYLOR HOLLOW MANAGEMENT, LLC**

On a motion by Matthew R. Gabriele, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, The Board of Supervisors of the County of Montgomery, Virginia held a public hearing on June 8, 2015, in order to receive comments on the Board's intention to sell the former Montgomery County School Board Administration Building Property, located at 200



Junkin Street, Christiansburg, Virginia, at auction consisting of 1.031 acres, ('the Property'), identified as Tax Parcel #'s 527-12 7,8,9; 527-12 7A; 527-12 8A, Parcel ID #'s 070677, 031579 and 200363; and

WHEREAS, The Property was sold at Public Auction with Taylor Hollow Management, LLC being the last and highest bidder for the Property at the sum of One Hundred Fifty Five Thousand Dollars (\$155,000); and

WHEREAS, The Board of Supervisors has accepted the highest bid and desires to convey the Property to Taylor Hollow Management, LLC.

NOW THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that the Board of Supervisors hereby authorizes the conveyance of the former Montgomery County School Board Administration Building Property, located at 200 Junkin Street, Christiansburg, Virginia consisting of 1.031 acres, Tax Parcel #'s 527-12 7,8,9; 527-12 7A; 527-12 8A, Parcel ID #'s 070677, 031579 and 200363 to the highest bidder Taylor Hollow Management, LLC for the high bid of One Hundred Fifty Five Thousand Dollars (\$155,000); and

BE IT FURTHER RESOLVED, That the Board of Supervisors of the County of Montgomery, Virginia hereby authorizes William H. Brown, Chair, to sign the Deed and any other documents necessary to convey the Property, on behalf of the County of Montgomery, Virginia.

The vote on the foregoing resolution was as follows:

AYE

Matthew R. Gabriele  
Mary W. Biggs  
M. Todd King  
Annette S. Perkins  
Christopher A. Tuck  
Gary D. Creed  
William H. Brown

NAY

None

**NEW BUSINESS**

**R-FY-15-141  
RESOLUTION SUPPORTING  
RICHARDSON AMBULANCE SERVICE ESTABLISHING A  
SATELLITE OFFICE IN THE UNINCORPORATED AREAS OF MONTGOMERY  
COUNTY, VIRGINIA FOR THE PURPOSE OF PROVIDING  
BOTH EMERGENT AND NON-EMERGENT TRANSPORTATION SERVICES**

On a motion by Mary W. Biggs, seconded by M. Todd King and carried unanimously,

WHEREAS, Richardson Ambulance Service currently operates as a licensed EMS agency in Smyth County, Virginia for both emergent and non-emergent transportation services; and

WHEREAS, Richardson Ambulance Service desires to provide its services to Montgomery County, Virginia by establishing an office at 2520 Tyler Road in the unincorporated area of Montgomery County, Virginia; and

WHEREAS, Richardson Ambulance Service plans to provide both emergent and non-emergent transportation services including, but not limited to, basic transport for doctor's visits, discharges from care facilities to home and other long term care facilities; and

WHEREAS, The Commonwealth of Virginia under Virginia Administrative Code 12VAC5-31-420 requires all licensed EMS agencies to request an ordinance or resolution of support from all jurisdictions they will be operating in; and

WHEREAS, The Board of Supervisors supports Richardson Ambulance Service providing transportation service on a prearranged/scheduled ambulance service transport to and from home and hospital, hospital to hospital or home to physician office and the Board does not support Richardson Ambulance Service responding to calls for service assigned to local rescue squads by 911 radio dispatch.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board of Supervisors hereby supports Richardson Ambulance Service establishing an office at 2520 Tyler Road in the unincorporated area of Montgomery County, Virginia for the intended purpose of operating as an EMS agency for both emergent and non-emergent transportation services on a prearranged/scheduled ambulance service transport to and from home and hospital, hospital to hospital or home to physician office. The Board of Supervisors does not support nor approve of Richardson Ambulance Service responding to calls for service assigned to local rescue squads by 911 radio dispatch.

The vote on the foregoing resolution was as follows:

AYE

Mary W. Biggs  
M. Todd King  
Annette S. Perkins  
Christopher A. Tuck  
Matthew R. Gabriele  
Gary D. Creed  
William H. Brown

NAY

None

**R-FY-15-142  
RESOLUTION TO RESERVE  
\$75,000 FOR A  
PARENTAL LEAVE PROGRAM**

On a motion by Matthew R. Gabriele, seconded by Mary W. Biggs and carried,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that \$75,000 from undesignated fund balance be reserved for costs associated with a Parental Leave Program.

The vote on the foregoing motion was as follows:

**AYE**

Matthew R. Gabriele  
Mary W. Biggs  
Annette S. Perkins  
William H. Brown

**NAY**

M. Todd King  
Gary D. Creed  
Christopher A. Tuck

**COUNTY ADMINISTRATOR'S REPORT**

The County Administrator reported on the following:

- The County closed on the former Prices Fork Elementary School property last week.
- The Junkin Street property (former MCPS administration offices) brought \$155,000 at auction.
- The County Administrator will be at the NRV Alliance all day on June 23<sup>rd</sup> conducting interviews for a new Alliance Director.
- Continuing to look for a human resources director. A number of applications have been received, and hopefully another round of interviews will be done in the next two weeks.

**BOARD MEMBERS' REPORTS**

- Supervisor Matthew R. Gabriele will attend the MTDC (Montgomery Tourism Development Council) meeting and the EDC (Economic Development Commission) meetings on Thursday, June 25<sup>th</sup>.
- Supervisor Annette S. Perkins – In the upcoming week Supervisor Perkins will attend the MPO (Metropolitan Planning Organization) meeting, and the New River Valley Regional Commission (formerly the PDC) meeting.
- Supervisor Bill Brown – Upcoming meetings for Supervisor Brown are Chamber of Commerce, Fire and Rescue Commission, and the County/School Liaison.

**ADJOURNMENT**

The Chair declared the meeting adjourned to Monday, July 13, 2015 at 6:00 p.m.

The meeting adjourned at 10 p.m.

APPROVED: \_\_\_\_\_  
William H. Brown  
Chair

ATTEST: \_\_\_\_\_  
F. Craig Meadows  
County Administrator